

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
WESTERN DIVISION

John S. Picard,

Case No. 1:23-cv-1416

Petitioner,

v.

ORDER

David W. Gray, Warden,

Respondent.

John S. Picard, an inmate at Belmont Correctional Institution in St. Clairsville, Ohio, filed a petition for a writ of habeas corpus, challenging his 2009 conviction on 42 counts of sexual battery committed against numerous juvenile girls and young women who attended the church at which Picard worked as a youth pastor. (Doc. No. 1). Respondent moves to transfer Picard's petition to the United States Court of Appeals for the Sixth Circuit as a second or successive habeas petition. (Doc. No. 6). Picard did not file a brief in response to this motion.

Picard previously filed two other habeas petitions challenging his conviction. Picard filed his first petition in the United States District Court for the Southern District of Ohio. *See Picard v. Warden Belmont Correctional Institution*, Case No. 2:11-cv-712 (S.D. Ohio). That court denied Picard's claims as procedurally defaulted, noncognizable in habeas proceedings, and meritless. *Id.* (Doc. Nos. 17 and 25). Picard did not appeal.

Picard then filed a second petition in the Southern District of Ohio, which was transferred to this Court. (*See* Case No. 1:18-cv-1672). I adopted Magistrate Judge William H. Baughman, Jr.'s

Report and Recommendation and granted the Respondent's motion to dismiss Picard's petition and transfer the case to the Sixth Circuit as a second or successive habeas petition. (Case No. 1:18-cv-1672, Doc. No. 14). The Sixth Circuit declined to grant Picard permission to proceed with his petition because he did not demonstrate there were newly discovered facts demonstrating his actual innocence or identify a new constitutional rule in support of his claims. (Case No. 1:18-cv-1672, Doc. No. 16).

If a petitioner files a second or successive habeas petition without first obtaining permission from the Court of Appeals, "the district court shall transfer the document to [the Sixth Circuit] pursuant to 28 U.S.C. § 1631." *In re Sims*, 111 F.3d 45, 47 (6th Cir. 1997); *see also* 28 U.S.C. § 2244(b)(3).

Picard previously filed two § 2254 petitions and did not first submit an application to the Sixth Circuit to file his current petition or provide any basis upon which I could conclude his current petition should not be considered second or successive. Therefore, I grant Respondent's motion to dismiss and to transfer this case to the Sixth Circuit. (Doc. No. 6). I dismiss Picard's current petition and transfer this case to the Sixth Circuit.

So Ordered.

s/ Jeffrey J. Helmick  
United States District Judge